

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

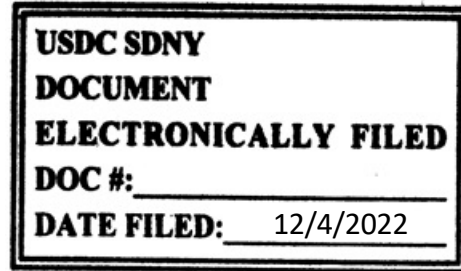
Oscar Sanchez,

Plaintiff,

-against-

El Barrio's Car Service, Inc. et al.,

Defendants.



1:19-cv-08724 (GBD) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

WHEREAS, on October 20, 2022, Plaintiff filed Proposed Findings of Fact and Conclusions of Law ("FOF") (Pl.'s FOF, ECF No. 69); and

WHEREAS, Plaintiff's FOF contain certain errors, including the following:

1. Although Plaintiff's employment with Defendants ended on December 23, 2018 (*see* Am. Compl., ECF No. 17, ¶ 7; Pl.'s Aff., ECF No. 69-2, ¶ 5), Plaintiff's FOF states that his employment ended on December 23, 2019. (*See* FOF ¶ 10.) As a result, Plaintiff's damages calculations for "Period 6" (*i.e.*, the last 52 weeks of Plaintiff's employment) are based upon a minimum wage of \$13.50 per hour (*i.e.*, the NY minimum wage for the period on or after December 31, 2018). (*See id.* ¶¶ 16, 19, 21.) The correct minimum wage for the last 52 weeks of Plaintiff's employment is \$12.00 per hour (*i.e.*, the NY minimum wage for the period December 31, 2017 to December 30, 2018). *See* N.Y. Lab. Law § 652(a).
2. Plaintiff's employment with Defendants commenced in July 2013. (*See* Am. Compl. ¶ 7; Pl.'s Aff. ¶ 2; Pl.'s FOF ¶ 6.) However, Plaintiff's damages calculations for "Period 1" (*i.e.*, the first 15 weeks of Plaintiff's employment) are based upon a minimum

wage of \$8.00 per hour (*i.e.*, the NY minimum wage for the period on or after December 31, 2013). (*See id.* ¶¶ 16, 19, 21.) The correct minimum wage for the first 15 weeks of Plaintiff's employment is \$7.15 per hour (*i.e.*, the NY minimum wage for the period January 1, 2007 to December 30, 2013). *See* N.Y. Lab. Law § 652(a).

3. The minimum wages upon which Plaintiff's damages calculations for the second through fifth periods are based similarly are inaccurate. *See* N.Y. Lab. Law § 652(a); and

WHEREAS, as a result of the foregoing errors, the damages sought by Plaintiff are incorrect.

NOW, THEREFORE, it is hereby ORDERED, that, no later than December 18, 2022, Plaintiff shall submit to the Court corrected, revised calculations of the amounts of minimum wages, overtime, spread of hours, liquidated damages, prejudgment interest and total damages due. For the avoidance of doubt, Plaintiff shall recalculate the amounts that currently are set forth in FOF paragraphs 16, 17, 19 to 22, 24 and 26 to 28 and file an amended set of Proposed Findings of Fact and Conclusions of Law by December 18, 2022.

SO ORDERED.

Dated: New York, New York
December 4, 2022



STEWART D. AARON
United States Magistrate Judge

